

Individuals with Disabilities Education Act (IDEA) Part C Procedural Safeguards

Technical Assistance and Training Guide



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Act (IDEA) Part C
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Purpose

This guide highlights activities in the Washington State Early Support for Infants and Toddlers (ESIT) program that require the implementation of specific procedural safeguards (e.g., authorization for release of records, parent prior written notice, written parent consent, etc.) in accordance with Part C of the Individuals with Disabilities Education Act (IDEA). The requirements referenced are based upon state *Part C Policies and Procedures*.

The reader is referred to the *State Part C Policies and Procedures* (www.del.wa.gov/publications/esit/) for a detailed explanation of each requirement.



Mission of ESIT – The purpose of the Early Support for Infants and Toddlers program is to build upon family strengths by providing coordination, supports, resources, and services to enhance the development of children with developmental delays and disabilities through everyday learning opportunities.



State Forms

Model state forms are referenced throughout the document. The use of these forms is optional. However, if a local lead agency (LLA) elects to develop and use LLA forms, these must meet all federal and state requirements.

The forms and each form's purpose are listed below (alphabetically):

Required State Forms

The Data Management System (DMS) must be used to create the Individualized Family Service Plan (IFSP). It includes all of the components necessary to meet the IDEA, Part C requirements, including:

- **IFSP Agreement** – To provide prior written notice and obtain consent from the parent(s) prior to initiating or refusing to initiate IFSP services.
- **IFSP Review Agreement** – To provide prior written notice and obtain consent from the parent(s) prior to initiating or refusing to initiate IFSP services after an IFSP review.

Model State Forms to Meet Part C Requirements (LLAs may use own forms)

- **Authorization for Release of Records:** To document parent(s) permission for the release of the child's records to other persons or agencies outside of the exceptions under the rules in Part C and the Family Education Rights and Privacy Act (FERPA) (www2.ed.gov/policy/gen/reg/ferpa/)
- **Confirmation of IFSP Schedule:** To provide a written meeting notice for the initial IFSP meeting, each IFSP review, and the Annual IFSP Meeting to the parent(s) and other IFSP team members to facilitate their participation.

- **Declining Participation in the ESIT Program:** To document the parent(s) decision to decline participation in the ESIT program.
- **Declining One or More Early Intervention Services:** To document the parent(s) decision to decline one or more of the early intervention services recommended by the IFSP team.
- **Notice and Consent for Screening:** To provide prior written notice to the parent(s) when screening is being proposed and to obtain parental consent to conduct the screening.
- **Notice & Consent for Initial Evaluation/Assessment:** To provide prior written notice to the parent(s) when an initial evaluation/assessment is being proposed and to obtain parental consent to conduct the initial evaluation/assessment being proposed.
- **Notice & Consent for Evaluation/Assessment:** To provide prior written notice to the parent(s) when an evaluation/assessment is being proposed and to obtain parental consent to conduct the evaluation/assessment being proposed.
- **Parent Prior Written Notice¹:** To provide the parent with prior written notice before the ESIT program takes an action or refuses to take an action in order to give the parent the opportunity to consider the action and request dispute resolution if they disagree with the ESIT program decision.
- **Record of Access:** Each LLA shall keep a record of access to early intervention records collected, maintained, or used by the ESIT program. However, the LLA is not required to keep a record of access by parents and authorized representatives of the LLA with a legitimate interest in the records.

¹Prior written notice is required to be provided to parents in a "reasonable time" before proposing or refusing to initiate or change the identification, evaluation, or placement of the child or the provision of appropriate early intervention services to the child and the child's family [34 CFR 303.421(a)]. This also applies to the use of any of the procedural safeguard forms that combine written prior notice with parent consent.

Components of the ESIT Program

Outlined below are Part C procedural safeguards organized by major components of the ESIT program process from referral to transition. For each of these components, steps are provided for implementing any required procedural safeguards. It should be noted that multiple steps may occur within one component.

Referral

The 45 calendar day timeline begins once a referral has been received by the LLA per state *Part C Policies and Procedures*.

Step 1—Referral Received

a. Parent Referral

If the parent has made the referral, the LLA Family Resources Coordinator (FRC) shares information about the ESIT program, completes general referral/intake information, and schedules an intake appointment with the parent(s) to further discuss the ESIT program and collect necessary intake information.

b. Referral by Primary Referral Source

Primary referral sources may include: hospitals; prenatal and postnatal facilities; physicians; parents; child care programs; local educational agencies; public health facilities; social service agencies; other health care providers; and other education agencies.

1. The LLA acknowledges the receipt of a referral from a primary referral source as soon as possible. This acknowledgment includes the date the referral was received. General intake information is documented.
2. The FRC contacts the parent(s) to discuss the referral to the ESIT program, to complete general referral/intake information, and to schedule an appointment to complete the intake process.

3. If the parent(s) is not interested in participating in the ESIT program, the LLA/FRC documents this decision using the *Declining Participation in the ESIT Program* form.

Step 2—Determination of Surrogate Parent

The LLA determines if the appointment of a surrogate parent is necessary and appoints one as needed. See the Early Intervention Practice Guide on Identifying the “parent” for infants and toddlers in foster care (www.del.wa.gov/publications/esit/) for more information on appointing surrogate parents.

Intake

The FRC meets with the family to explain the ESIT program and completes the intake process that includes the following steps:

Step 1—Intake Procedure

The FRC meets with the parent(s) for the first time to:

- Emphasize the voluntary nature of the ESIT program and the parent’s right to refuse to participate;
- Explain procedural safeguards and parent rights, including providing the parent(s) with a written copy of those rights (*Use Early Support for Infant and Toddlers Program: Individuals with Disabilities Education Act (IDEA) Part C Procedural Safeguards (ESIT Parent Rights)*);
- Provide a copy of “A Family’s Guide to Early Intervention Services in Washington State” to the parent;
- Determine the availability of existing evaluation and assessment information from other sources and obtain parental consent for receipt of this information (*Use Authorization for Release of Records* form); and
- Share information with the primary referral source; parent consent is also required using the Authorization for Release of Records form.

Step 2—Complete Screening As Necessary

If screening is deemed appropriate to determine whether or not the child is suspected of having a disability and an evaluation and assessment is necessary, prior written notice must be provided and parent consent must be obtained. The FRC reviews a completed *Notice and Consent for Screening* form with the parent(s) to explain what is being proposed and why and the parent(s) option to provide their written consent if they agree. As a part of this discussion, the parent must be given a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s). With written parental consent, the FRC completes screening activities. If at any time during the screening process, the parent requests and provides consent for an evaluation, the evaluation must be conducted, even if the child is not suspected of having a disability.

The FRC discusses the results of the screening activities with the parent(s).

- a. If the screening results indicate the need for evaluation/assessment, proceed to Step 3b.
- b. If the screening results do not suggest the need for evaluation/assessment, the parent(s) and the FRC discuss further options. If the parents agree that no further evaluation is needed, the FRC proceeds to step 3a below. If after screening the parent(s) still wants an evaluation/assessment, the FRC proceeds to Step 3b.
- c. If the parent(s) is not interested in participating in the ESIT program, the LLA/FRC documents this decision using the *Declining Participation in the ESIT Program* form.

Step 3—Determining Need for Evaluation/Assessment

- a. **Evaluation/Assessment Not Necessary**
If the ESIT program determines that evaluation/assessment is not necessary and the parent has not requested an evaluation and assessment, the LLA must provide prior written notice to the parent(s) of this decision. (Use *Parent Prior Written Notice* form, which requires the parent(s) be given a

copy of the *ESIT Parent Rights*). Prior written notice gives the parents the opportunity to request formal dispute resolution procedures if they disagree with the decision made by the LLA. If, after a reasonable period of time, the parent(s) does not request dispute resolution, the LLA closes the child's early intervention record.

b. Evaluation/Assessment Necessary

If, as a result of information gathered and obtained, including screening results if available, the LLA determines that evaluation/assessment is necessary, prior written notice must be provided and parental consent must be obtained. The FRC reviews a completed *Notice and Consent for Initial Evaluation/Assessment* form with the parent(s) to explain what is being proposed and why and the parent's option to provide written consent if he or she agrees. As a part of this discussion, the parent must be given a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s).

Evaluation and Assessment Activities

After written parental consent for evaluation/assessment has been obtained, an evaluation and assessment is conducted for the purpose of determining: (1) the developmental status of the child in each of the developmental areas; (2) Part C eligibility; (3) the child's unique strengths and areas of need in each developmental area; (4) outcomes and strategies to address those needs, including parent(s) concerns and priorities; and (5) the nature and extent of early intervention services that are needed by the child and family to accomplish these outcomes.

Step 1 — Establishing the Evaluation and Assessment Team

A team is formed which includes, at a minimum, the parent(s), the FRC and at least two qualified personnel from different disciplines (or one qualified professional from two disciplines), and the evaluation and assessment are scheduled with the parents.

Step 2 — Completion and Documentation of Evaluation and Assessment Activities

A comprehensive evaluation and assessment of the child is completed in all developmental areas using nondiscriminatory procedures and all applicable State Part C policies and procedures. The team must document the results of the evaluation and assessment.

Step 3 — Documentation of Eligibility

a. Child Is Eligible

If the child is determined eligible for the ESIT program, the FRC must provide the parent(s) with prior written notice that the child is eligible for the program and that the team will hold a meeting to develop the IFSP. The completed *Parent Prior Written Notice* form must be reviewed with the parent(s) outlining what is being proposed and why, and the parent's options. As a part of this discussion, the parent must be given a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s).

If the parent(s) declines participation in the ESIT program after receiving the completed *Parent Prior Written Notice* form, which states the child is eligible, then the FRC must document that decision through the *Declining Participation in the ESIT Program* form.

b. Child Is Not Eligible

If the child is determined not eligible for the ESIT program, the FRC must provide the parent(s) with prior written notice indicating the child's ineligibility and the parent's right to request formal dispute resolution if they disagree with the decision made by the LLA. (Use *Parent Prior Written Notice* form). As a part of this discussion, the parent must be given a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s). If the parent(s) does not request dispute resolution, the LLA closes the child's early intervention record.

Individualized Family Service Plan (IFSP) Activities

The IFSP process determines the child's unique strengths and areas of need, outcomes and strategies to address those needs, including parent(s) concerns and priorities, and the nature and extent of early intervention services that are needed by the child and family to accomplish these outcomes. A meeting to develop the initial IFSP must be held within 45 calendar days of referral to the LLA.

Step 1 – Initial IFSP Meeting

a. Written Notice of the IFSP Meeting

The LLA must provide a written meeting notice to the parent(s) and other IFSP team members using the *Confirmation of Individualized Family Service Plan (IFSP) Schedule* form to facilitate their participation. The date, time, and place of the IFSP meeting must be included. This written notice to the parents and IFSP team members is not the same as prior written notice.

b. IFSP Meeting in Native Language

IFSP meetings are conducted in the native language of the parent(s), or other mode of communication used by the parent, unless it is clearly not feasible to do so. Written documentation of efforts to locate interpreter services for the parent(s) must be maintained in the child's early intervention record, documented in either the ESIT Data Management System or the child's program file.

c. Family Assessment

With the concurrence of the family, the IFSP must contain a statement of the family's resources, priorities, and concerns related to enhancing the development of their infant/toddler. Some of this information may have been obtained earlier in the intake process but is required to be recorded on the Child/Family Routines and Activities and the Family Concerns, Resources, Priorities pages in the IFSP.

d. IFSP Consent

The parent(s) determines whether they, their child, or other family members will accept or decline any specific early intervention service, and may decline one or more early intervention service after first accepting it, without jeopardizing other early intervention services. If a parent revokes consent, it is not retroactive (it does not apply to any action that occurred before the consent was revoked).

1. Providing Prior Written Notice and Obtaining Consent for All Early Intervention Services Recommended by the IFSP Team

Prior written notice and parental consent are required prior to implementing IFSP services. The *IFSP Agreement* and the *IFSP Review Agreement* incorporates both of these requirements. The *IFSP Agreement* must be completed for the initial and annual IFSPs. The *IFSP Review Agreement* must be completed for all IFSP reviews.

- i. If the parent agrees with the specific early intervention services listed on the IFSP, including the frequency and length, intensity, location, duration, method of delivering services and/or other IFSP action(s), then parent signature on the IFSP or IFSP review serves as prior written notice and consent for implementation of these early intervention services.
- ii. If the parent is requesting a specific Part C service, frequency, length, intensity, location, duration, method of delivering services and/or other IFSP action(s) that the IFSP team does not agree is appropriate to meet the needs of the child or family, then the LLA/FRC must complete the "Action Refused (if any)" and the "Reasons for Refusal (if action refused)" sections on the *IFSP Agreement* or *IFSP Review Agreement*).

A copy of the *ESIT Parent Rights* must be provided and these rights must be explained to the parent(s).

2. Declining Participation in ESIT

If, after completing the IFSP, the parent(s) declines participation in the ESIT program altogether, the FRC must ensure that the parent(s) understands the services being offered and that their child and/or other family members will not be able to receive IFSP services without consent. Then, the parent(s) is asked to sign the *Declining Participation in the ESIT Program* form.

3. Declining One or More Part C Services Recommended by the IFSP Team

In those situations in which a parent decides to participate in the ESIT program (which requires the provision of service coordination)², but declines one or more early intervention services recommended by the IFSP team, the parent is asked to sign the *Declining One or More Early Intervention Service(s)* form indicating which service(s) was/were declined. The parent(s) may, at a later date through the IFSP process, accept the declined service(s). All services that are accepted are included on the IFSP and parent signature indicates consent for these services.

Step 2—IFSP Reviews

A periodic review of the IFSP must be conducted at least every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the review is to determine the degree to which progress toward achieving outcomes is being made and whether modification or revision of outcomes and services is necessary. Any changes in the types and levels of early intervention services, including the frequency, length, intensity, location, duration, method of delivering services and/or other IFSP action(s), is accomplished through the IFSP process.

a. Written Notice of the IFSP Review Meeting

The LLA must provide a written meeting notice to the parent(s) and other IFSP team members using the *Confirmation of*

Individualized Family Service Plan (IFSP) Schedule form to facilitate their participation. The date, time, and place of the IFSP meeting must be included. This written notice to the parents and IFSP team members is not the same as prior written notice.

b. IFSP Meetings in Native Language

IFSP meetings are conducted in the native language of the parent(s), or other mode of communication used by the parent, unless it is clearly not feasible to do so. Written documentation of efforts to locate interpreter services for the parent(s) must be maintained in the child's early intervention record, documented in either the ESIT Data Management System or the child's program file.

²To participate in the ESIT program, parents cannot decline Family Resources Coordination but they can decline any other Part C early intervention service.

c. Prior Written Notice

Prior written notice must be provided within a reasonable time prior to the IFSP review meeting (use *Parent Prior Written Notice* form).

During the IFSP review meeting, prior written notice must also be provided in conjunction with obtaining parental consent for IFSP review services using the *IFSP Review Agreement* along with other appropriate procedural safeguard forms described in Step 1 (d)(1-3) above. Whenever prior written notice is provided, the parent(s) must also be given a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s).

d. Ongoing Eligibility

The IFSP team is responsible for ensuring the continuing eligibility of a child for the ESIT program. If the team believes the child may no longer be eligible for early intervention services, an IFSP meeting must be conducted to determine next steps. This may include the decision to review any assessment information available (including

ongoing assessment used for IFSP reviews), and/or to complete additional evaluations or assessments. If additional evaluations and assessments are needed, the FRC must provide prior written notice and obtain parental consent. (Complete the *Notice and Consent for Evaluation/Assessment* form.) Following the completion of additional evaluations and assessments, the IFSP team reviews all available information, and determines if the child continues to be eligible for Part C services. If the child continues to be eligible, no additional steps are needed. If the child is no longer eligible for services, complete Step 3b in *Evaluation and Assessment* above.

Step 3—Annual IFSP

An annual review of the IFSP must be conducted to evaluate the IFSP and as appropriate make revisions. Any changes in the types and levels of early intervention services, including the frequency, length, intensity, location, duration, method of delivering services and/or other IFSP action(s), is accomplished through the IFSP process.

a. Written Notice of the Annual IFSP Meeting

The LLA must provide a written meeting notice to the parent(s) and other IFSP team members using the *Confirmation of Individualized Family Service Plan (IFSP) Schedule* form to facilitate their participation. The date, time, and place of the IFSP meeting must be included. This written notice to the parents and IFSP team members is not the same as prior written notice.

b. IFSP Meetings in Native Language

IFSP meetings are conducted in the native language of the parent(s), or other mode of communication used by the parent, unless it is clearly not feasible to do so. Written documentation of efforts to locate interpreter services for the parent(s) must be maintained in the child's early intervention record, documented in either the ESIT Data Management System or the child's program file.

c. Prior Written Notice

Written prior notice must be provided within a reasonable time prior to the annual IFSP meeting (use *Parent Prior Written Notice* form).

During the annual IFSP meeting, prior written notice must also be provided prior to or in conjunction with obtaining parental consent for IFSP services using the *IFSP Agreement* along with other appropriate procedural safeguard forms described in Step 1(d)(1-3) above (see page 6). Whenever prior written notice is provided, the parent(s) must also be given a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s).

d. Ongoing Eligibility

The IFSP team is responsible for ensuring the continuing eligibility of a child for the ESIT program. The procedures and use of procedural safeguard forms outlined under Step 2 (d) above are followed as appropriate.

a. Notification of children who are potentially eligible for Part B services and are shortly reaching the age of eligibility for preschool special education

LEA and SEA Notification are required for all children who are potentially eligible for Part B services and will shortly reach the age of three. Since not all children served by Part C are potentially eligible, the IFSP team is responsible for making this determination for each individual child. Federal requirements prohibit obtaining parental consent prior to providing LEA and SEA Notification for potentially eligible children. This notification must occur at least 90 days prior to the child's third birthday. However, if a child is referred to Part C between 2 years 9 months and 2 years 10.5 months of age, LEA and SEA Notification for children potentially eligible for Part B is completed as soon as eligibility for Part C has been determined. The FRC is responsible for ensuring this occurs.

Informed written parental consent for transferring information (e.g., IFSPs, evaluation and assessment information) to the local school system must be obtained using the *Authorization for Release of Records* form.

Transition Activities

Transition planning is an important component of the IFSP process to ensure that services continue to be provided without unnecessary disruption.

Step 1—Transition Plan

A transition plan, that includes steps to exit from the program and appropriate services, is required to be developed at least 90 days and no more than nine months prior to the child's 3rd birthday. Since the transition plan is a part of the IFSP, the IFSP team, which includes the parent, develops the transition plan. The plan can be developed at the Transition Conference or another IFSP meeting.

Step 2—LEA and SEA Notification

The LLA/FRC is responsible for providing notification, which includes the child's name, date of birth, and parent's contact information, to the local education agency or school district (LEA) where the toddler with a delay or disability resides and the state education agency (SEA).

Step 3—Referral to Other Community Programs

Whether or not the child is determined potentially eligible for preschool special education, the FRC must also discuss other community options with the parent. If the parent requests referral to other community programs, the FRC discusses other community options as appropriate and refers the child to other community programs prior to the child's third birthday. FRCs use referral forms from the local lead agency or other community programs.

In addition, informed, written parental consent for transferring information to these community programs is also required using the *Authorization for Release of Records* form.

Step 4—Transition Conference

a. Part B Transition Conference

In the case of a child who may be potentially eligible for Part B preschool services, the LLA, with approval of the parent(s), must convene a meeting with local school system representatives and the family at least 90 days, and at the discretion of the parties, up to nine months prior to the child's third birthday, to discuss transition plans and activities. The purpose of this meeting is to either update or develop the transition plan on the child's IFSP outlining the steps to be taken to support the child's transition to preschool services under Part B.

Because the transition plan is contained within the child's IFSP, the Part B transition meeting is considered an IFSP meeting. Prior written notice must be provided within a reasonable time prior to the transition meeting (use *Parent Prior Written Notice* form) as well as a written meeting notice to the parent(s) and other IFSP team members using the *Confirmation of Individualized Family Service Plan (IFSP) Schedule* form to facilitate their participation. During the transition meeting, procedural safeguards forms outlined in *Individualized Family Service Plan Activities*, Step 1(d)(1-3) above are used as appropriate (see page 7). Whenever prior written notice is provided, the parent must also be provided a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s).

b. Other Transition Conference

In the case of a child who may not be eligible for Part B preschool services, the LLA, with approval of the parent(s), shall make reasonable efforts to convene a transition meeting with the family and other appropriate service providers at least 90 days, and at the discretion of the parties, up to nine months prior to the child's third birthday. The purpose of this meeting is to complete the transition plan on the child's IFSP, outlining steps to be taken to support the child's transition to other services that may be available, if appropriate.

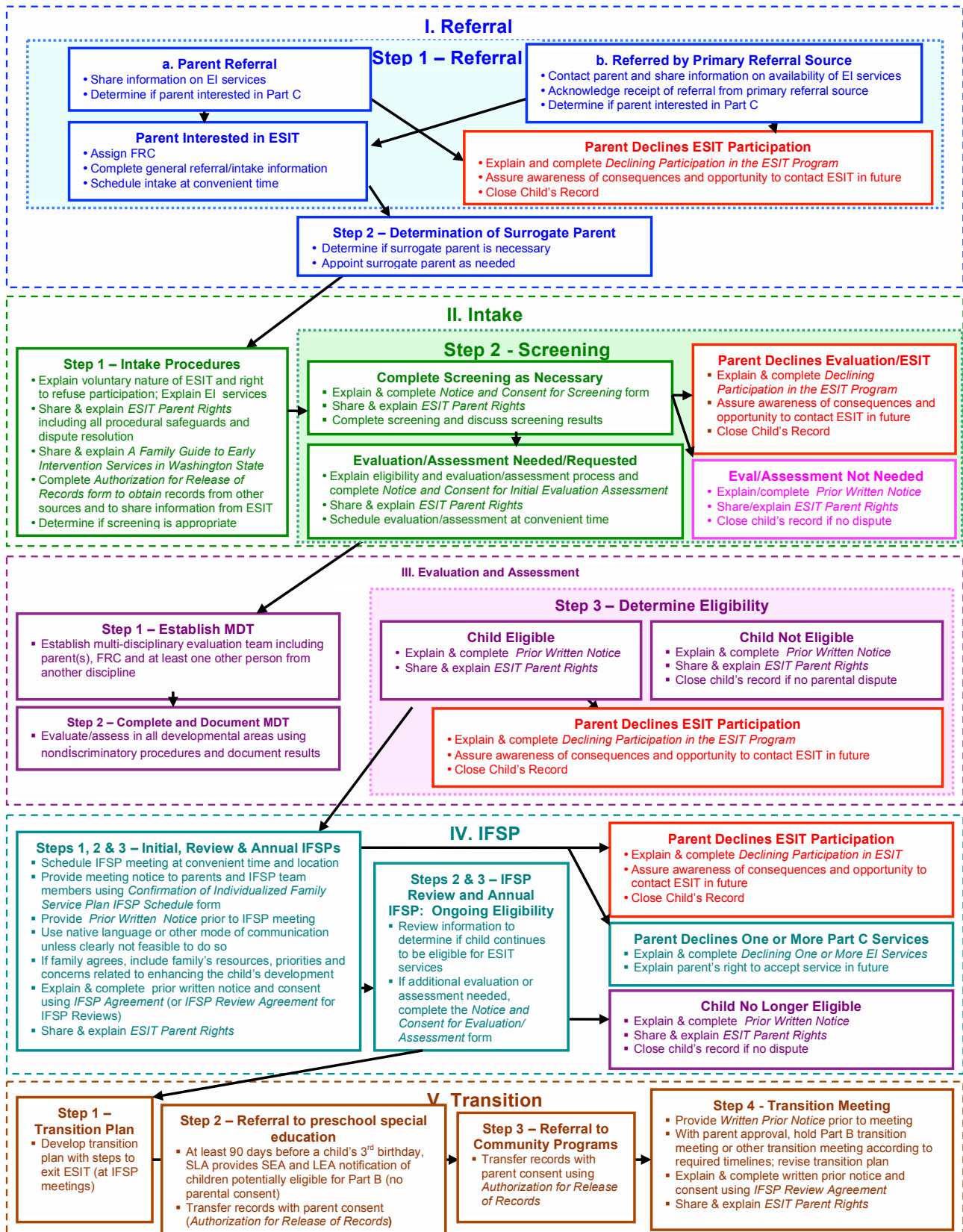
Because the transition plan is contained within the child's IFSP, the transition meeting is considered an IFSP meeting. Prior written notice must be provided within a reasonable time prior to the transition meeting (use *Parent Prior Written Notice* form) as well as a written meeting notice to the parent(s) and other IFSP team members using the *Confirmation of Individualized Family Service Plan (IFSP) Schedule* form to facilitate their participation. During the transition meeting, procedural safeguards forms included in *Individualized Family Service Plan Activities*, Step 1(d)(1-3) above are used as appropriate (see page 7). Whenever prior written notice is provided, the parent must also be given a copy of the *ESIT Parent Rights* and these rights must be explained to the parent(s).

Child Record Keeping Activities

The LLA must establish and implement procedures for ensuring confidentiality of information requirements consistent with State Part C policies and procedures. This includes **originals** of all completed/signed procedural safeguards forms, signed IFSPs (initial, 6 month and annual reviews), and adequate case or progress notes that must be maintained in the child's early intervention record.

Appendix

Implementing Part C Procedural Safeguards in Washington State: A Step-by-Step Model





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